

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 02.07.2019

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.16142 of 2019

K.Muthukrishnan

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Additional Chief Secretary
to Government,
Home (Police III) Department,
Secretariat, Chennai - 600 009.
2. The Director General of Police,
No.1, Dr.Radhakrishna Salai, Mylapore,
Chennai - 600 004.
3. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office campus,
Pantheon Road, Egmore, Chennai - 08.
4. The Director of Medical Education,
No.62, Periyar E.V.R.High Road, Kilpauk,
Chennai - 10.
5. The Director and Superintendent,
Regional Institute of Ophthalmology
and Government Ophthalmic Hospital,
Chennai - 8.
6. The Superintendent of Police,
Salem District, Salem.
7. The Dean,
Govt.Mohan Kumaramangalam,
Medical College Hospital,
Salem.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of mandamus directing the second respondent to consider the petitioner appeal dated 22.11.2018

and to pass appropriate orders within limited time frame.

For Petitioner : Mr.P.Ganesan
for Mr.A.M.Esakkiappan

For Respondents: Mr.I.Sathish, AGP
for R1 to R.3 & R.5
Mr.V.Kathirvelu, Spl.G.P.
for R.4 & R.7
Mr.J.Pothiraj, Spl.G.P.
for R.6

ORDER

The petitioner applied for the post of Grade II Police Constable (MBC Category), which was conducted for the year 2017. He participated in the written examination held on 21.05.2017 and obtained 66 marks out of 80 in the written examination. Thereafter, he participated in the Endurance Test (Height, Chest and running-1500 meter) on 29.07.2017 and he has also successfully completed the Physical Efficient Test, on 03.08.2017. The petitioner finally secured total marks of 78 and the cut off marks for MBC category was 73. Therefore, the petitioner has secured much higher marks than the cut off marks prescribed.

2.Subsequently, on 10.09.2017, the petitioner was called for certificate verification and he attended the Medical Fitness Test on the same day. On 23.11.2017, the sixth respondent informed the petitioner that he was found ineligible for appointment to the post of Grade II Police Constable for the reason that he has undergone lasik surgery. However, the petitioner appeared before the seventh respondent and obtained fitness certificate (Vision fitness certificate) on 16.02.2018. Based on the said certificate, he was allowed to appear before the second Medical Board on 30.10.2018, as per the proceedings issued by the fifth respondent. The petitioner had duly appeared before the second Medical Board and his vision was examined on the said date once again. However, the Medical Board opined, vide its report dated 07.11.2018 that the petitioner was unfit due to lasik scar. Based on the report of the Medical Board, the sixth respondent, by his proceedings dated 19.11.2018 rejected the candidature of the petitioner for appointment to the post of Grade II Police Constable.

3.Against the above order, the petitioner preferred an appeal on 22.11.2018 stating that few other similarly placed persons like him have been considered by the second Medical Board and they were found to be eligible and given appointments.

In fact, the names of those persons have also been mentioned in the said appeal dated 22.11.2018, and requested the Authorities to consider his candidature also for appointment to the post of Grade II Police Constable. However, no orders have been passed in the appeal and therefore, the petitioner is before this Court for issuance of writ of mandamus.

4.On notice, Mr.I.Sathish, learned Additional Government Pleader entered appearance for respondents 1 to 3 and 5 and Mr.V.Kathiravelu, learned Special Government Pleader entered appearance for respondents 4 and 7 and Mr.J.Pothiraj, learned Special Government Pleader entered appearance for R6.

5.The learned counsels appearing for the respondents would submit that since the prayer in the writ petition is limited in its scope, a direction may be issued to the respondents to consider the representation of the petitioner and pass orders on the petitioner's appeal within the time to be stipulated by this Court.

6.In the light of the above, the writ petition is disposed of with the following directions:

(i)The 2nd respondent is directed to dispose of the appeal of the petitioner dated 22.11.2018 on merits and in accordance with law within a period of four weeks from the date of receipt of copy of this order.

(ii)The second respondent is also directed to consider the claim of the petitioner on par with the other candidates, whose names were mentioned in the petitioner's appeal dated 22.11.2018 and pass appropriate orders.

(iii)The second respondent shall also consider whether the petitioner is otherwise fit for appointment as Grade II Police Constable in the Police Department, notwithstanding the report of the Medical Board.

No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msk/mrm

To

1. The Additional Chief Secretary
to Government,
Home (Police III) Department,
Secretariat, Chennai - 600 009.

2. The Director General of Police,
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7. The Dean,
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Medical College Hospital,
Salem.

+1 cc to Mr.A.M.Esakkiappan, Advocate, Sr.No. 54769

RSV(CO)
CSL/24.07.2019

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सत्यमेव जयते

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